

NOT INCLUDED IN
BOUND VOLUMES

LBP
Tempe, AZ

UNITED STATES OF AMERICA

BEFORE THE NATIONAL LABOR RELATIONS BOARD

GARNER/MORRISON, LLC

and

Case 28-CA-21311

INTERNATIONAL UNION OF PAINTERS AND ALLIED
TRADES, DISTRICT COUNCIL #15, LOCAL UNION
#86, AFL-CIO-CLC

and

Case 28-CB-6585

SOUTHWEST REGIONAL COUNCIL OF CARPENTERS

ORDER DENYING MOTION FOR RECONSIDERATION

On May 27, 2011, the National Labor Relations Board issued a Decision and Order Remanding¹ in this proceeding, finding that Respondent Garner/Morrison (Garner/Morrison) violated Section 8(a)(1) of the Act by engaging in surveillance of its employees' union activities and violated Section 8(a)(2) and (1) of the Act by assisting and recognizing the Respondent Southwest Regional Council of Carpenters (the Carpenters). The Board further found that the Carpenters violated Section 8(b)(1)(A) of the Act by accepting such assistance and recognition and by entering into a collective-bargaining agreement with Garner/Morrison. To remedy the unfair labor practices, the Board ordered the Respondents to cease and desist and to take certain

¹ 356 NLRB No. 163.

affirmative action designed to effectuate the policies of the Act.² Finally, the Board severed a complaint allegation that Garner/Morrison unlawfully interrogated employee Gary Servis and remanded that allegation to the judge for further appropriate action.³ On June 26, 2011, Respondent Garner/Morrison filed a motion for reconsideration, and Respondent Carpenters filed a notice that it was joining the motion.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

Having duly considered the matter, the Board finds that the Respondents' (the Union is joining) motion fails to present "extraordinary circumstances" warranting reconsideration under Section 102.48(d)(1) of the Board's Rules and Regulations.⁴

IT IS ORDERED, therefore, that the motion for reconsideration is denied.

² Contrary to Garner/Morrison's contention, our Order should not be interpreted as requiring a Board certification of representative before Garner/Morrison may lawfully recognize the Carpenters (or any other labor organization) as its employees' Sec. 8(f) collective-bargaining representative. Our Order is consistent with the Board's remedy in similar cases arising in the construction industry. See *Clock Electric, Inc.*, 338 NLRB 806, 808 (2003).

³ On April 29, 2009, after the two-Member Board issued its Decision and Order remanding, the judge issued a supplemental decision dismissing this interrogation allegation. No exceptions were filed to that dismissal. Consequently, this allegation requires no further proceedings.

⁴ In its motion, Respondent Garner/Morrison for the first time cites *Coamo Knitting Mills*, 150 NLRB 579 (1964), in support of its argument that, even assuming that it unlawfully surveilled employees while they signed union authorization cards, such unlawful surveillance did not taint the Carpenters' showing of majority support. Although Garner/Morrison's belated citation of this case does not establish "extraordinary circumstances" *Coamo Knitting Mills* is nonetheless distinguishable. In that case there was no complaint allegation, much less any Board finding, that the employer engaged in unlawful surveillance of employees signing authorization cards.

Dated, Washington, D.C., August 18, 2011.

Wilma B. Liebman,	Chairman
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Craig Becker,	Member
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Mark Gaston Pearce,	Member
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(SEAL)

NATIONAL LABOR RELATIONS BOARD